

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JAMES L. HODGES, and AISHATU S. YUSUF,

Plaintiffs,

V.

U.S. DEPARTMENT OF HOMELAND
SECURITY, UNITED STATES
CITIZENSHIP AND IMMIGRATION
SERVICES, and UNITED STATES
CITIZENSHIP AND IMMIGRATION
SERVICES,

Defendants.

8:06CV304

ORDER

This matter is before the court on defendants' motion to dismiss, Filing No. 7. The motion has been rendered moot by the filing of an amended complaint, Filing No. 9. Rule 15 (a) provides that "(a) party may amend his pleading once as a matter of course at any time before a responsive pleading is served." Fed. R. Civ. P. 15(a). "A motion to dismiss is not a 'responsive pleading' for purposes of this rule." See *Winfrey v. Brewer*, 570 F.2d 761, 764 n.4 (8th Cir. 1978). Accordingly,

IT IS HEREBY ORDERED that defendants' motion to dismiss, Filing No. 7, is denied as moot.

DATED this 12th day of July, 2006.

BY THE COURT:

s/ Joseph F. Bataillon
United States District Judge